HON'BLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION No.15984 of 2006

Date : 01-08-2006

Between:

Mustur Manohar Narayanamma

…Petitioner/s

And

The District Collector,
Nellore District,
Nellore and others.

…Respondent/s

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O R D E R :

The petitioner apprehends that the respondents would demolish the properties owned by her in premises bearing No.12-55, Mutyalapeta, Main Road, Gudur, without following the due procedure established by law and after initiation of acquisition process under the provisions of the Land Acquisition Act, 1894 (for brevity 'the Act').

The petitioner claims to be the owner of the said property and that their family is in possession of the said property for the past 85 years and in enjoyment thereof. They constructed a building after due permission and are also paying taxes to the Municipality. The petitioner alleges that the staff of the respondents (District Collector, Sub-Collector, Executive Engineer (R & B) have visited the petitioner's house on 28-7-2006 and have made markings. When the petitioner questioned the respondents, the visiting personnel informed the petitioner that they would demolish the building to the extent of the markings. When the petitioner questioned them whether any proceedings have been initiated under the Act, there was no response. In these circumstances, apprehending illegal and criminal trespass by the State Actors under the colour of office into her property

and deprivation of the property, otherwise than in accordance with the due process of law, the petitioner is before this Court for appropriate relief.

As on date, except the overt action of marking on the building, it is not alleged that any person in Public Office has taken any other overt-act either to dispossess the petitioner or to demolish the structures in her premises without following the due process of law.

If any person, including a person in Public Office, irrespective of the status of the Public Office, without the authority of law or unlawfully interferes with the possession or ownership rights of any citizen, a citizen has a plurality of remedies nearer home instead of facing the trauma of traveling all the way to the High Court. He could seek injunctive relief before the Civil Court of competent jurisdiction locally and in an emergent situation seek waiver of the notice requirement under Section 80 of the Code of Civil Procedure, 1908. He could file an application before the jurisdictional Police Station naming the person or persons including those in Public Office, who in abuse of such office, without the authority or law or without following the due procedure of law, are seeking to deprive a citizen of his property in transgression of the applicable Statutory requirement, procedural or substantive, which is a condition precedent for exercise of official power. On such a complaint being made, the police are duty bound under the mandate of the Code of Criminal Procedure, 1973 to register the complaint and pursue investigation relentlessly against any person, including a person in Public Office, unless the person enjoys some specific immunity from civil or criminal process under the Constitution and the Laws. A third option available to the petitioner is to exercise the right of private defence to safeguard her property.

In view of the several remedies available to the petitioner and in view of the fact that no overt act, as yet, of any authority or an instrumentality of the State is alleged in the writ petition, no case is made out for interference.

As and when the petitioner is aggrieved and any overt-act is exhibited by any person in Public Office unlawfully or without due authority of law, the petitioner is at liberty to pursue any of the legitimate remedies available to her, including those adverted to above.

The writ petition is dismissed. No order as to costs.

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(GODA RAGHURAM, J)

01-08-2006.

NOTE: Issue C.C. tomorrow.

(B/O)

Msr.

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